

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Derrick Joseph Miles,	)	Civil Action No.: 4:12-523-MGL
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Sheriff Wayne DeWitt, Capt. McElvogue,	)	<b>ORDER AND OPINION</b>
Officer Sawyer, Officer Mencie,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	
	)	

---

Plaintiff Derrick Joseph Miles (“Plaintiff”) is a state prisoner at the Hill-Finklea Detention Center of the South Carolina Department of Corrections (“SCDC”) in Moncks Corner, South Carolina proceeding *pro se* and *in forma pauperis*. On February 27, 2012, Plaintiff filed a Complaint (ECF No.1), pursuant to 42 U.S.C. § 1983 against the above named defendants alleging violations of his constitutional rights. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pretrial handling.

On August 27, 2012, Magistrate Judge Rogers issued a Report and Recommendation (“Report”) recommending that the case be summarily dismissed, with prejudice, pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. (ECF No. 32.) Plaintiff has not responded to Defendants’ motion to dismiss or the Court’s order requiring him to respond, and mail addressed to him has been returned as undeliverable.<sup>1</sup> (ECF No. 25.) The Magistrate Judge makes only a recommendation

---

<sup>1</sup>An Order was issued on May 14, 2012, directing Plaintiff to “always keep the Clerk of Court advised in writing” if his address changed for any reason or his case may be dismissed. (ECF No. 11).

to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

No objections were filed to the Report and Recommendation. The Report and Recommendation (ECF No. 32) was mailed to Plaintiff on August 27, 2012. The mail was returned to the court on September 4, 2012 (ECF No. 34) as undeliverable. Plaintiff has not provided the court with an updated address as required by the Order of May 14, 2012 (ECF No. 11), and, as a result, the court has no means of contacting him concerning his case. Plaintiff was warned and advised in the Order to keep the Clerk apprised of his current address and that a failure to do so may result in a dismissal of the case. Accordingly, this action is due to be dismissed pursuant to Federal Rules of Civil Procedure 41(b) for failure to prosecute and failure to comply with the orders of this court. Furthermore, in the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir.1983).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is DISMISSED with prejudice.

IT IS SO ORDERED.

s/Mary G. Lewis  
United States District Judge

Spartanburg, South Carolina  
September 21, 2012